

TEXT OF PROPOSED REGULATIONS

In the following, underline indicates adopted text and ~~strikethrough~~ indicates deleted text.

New section 3075.4 is adopted to read:

3075.4. Earned Discharge From Parole

These regulations require that the California Department of Corrections (CDCR) evaluate an offender's criminal history and adjustment to parole six months upon release from an institution. The evaluation will identify non-violent offenders as defined in Penal Code (PC) section 667.5(c), and non-serious offenders as defined in PC section 1192.7, and determine their risk to re-offend as included in this section, and result in a recommendation for discharge from parole only for those offenders included in the low risk level classification.

(a) Discharge From Parole. A parolee may be recommended for discharge at any time when a parolee's case factors and/or other considerations provide support for earned discharge from parole.

(b) Earned Discharge Process is a review process that will determine which parolees are eligible to be considered for a recommendation of an earned discharge after 180 days of continuous parole.

(c) Earned Discharge Eligibility. The following parolees are not eligible and will be excluded from participating in the earned discharge program:

(1) Parolees currently assigned to a locked facility for the purpose of treatment for a medical or mental health condition or for substance abuse treatment. The 180-day period for purposes of earned discharge for these parolees shall begin on the day after release from the locked facility.

(2) Parolees who have not completed a court ordered program.

(3) Parolees currently being supervised in California under the Interstate Compact Act.

(4) Civil Addicts currently being supervised under the Civil Addict Program.

(5) PC section 290 registrants (sex offenders).

(6) Parolees whose current commitment offense falls under PC section 1192.7, Serious Offenders.

(7) Parolees whose current commitment offense falls under PC section 667.5(c), Violent Offenders.

(8) Parolees who have been on active parole for a period of six months or longer, with a documented break in supervision as a result of:

(A) Parolee at Large/Suspended status.

(B) Parole Violation resulting in a period of revocation assessed by the Board of Parole Hearings (BPH).

(d) Earned Discharge Review Process. At 150 days, the initial review process will begin and must be completed within 7 working days.

(1) Division of Adult Parole Operations (DAPO) assigned staff shall review all active parolee Controlled Service and Minimum Service files for earned discharge eligibility and exclusion as provided in subsection 3075.4(c).

(A) Those parolees who meet the excluded criteria or any other factor that makes them not eligible for an earned discharge, will be excluded.

(B) For each remaining eligible case, DAPO assigned staff shall also obtain the Juvenile record from the Department of Justice database.

(C) All remaining cases, along with the Juvenile records will be forwarded to the respective parole unit for final review.

(2) The following final review process shall be completed within 15 working days:

(A) The Parole Agent of Record (AOR) shall review the parolee's field file.

(B) The field file will be reviewed and a risk assessment will be completed using the CDCR Form 2162 (9/07), Earned Discharge Assessment, which is incorporated by reference, and outlined in subsection 3075.4(e). Only those parolees who have been assessed as a low risk will be eligible for a recommendation of an earned discharge.

(C) During the field file review, the AOR will identify any additional exclusionary criteria that may exclude the offender from being recommended for earned discharge. Such exclusionary criteria shall include, but not be limited to:

1. Any parole violations including Continued On Parole.

2. Prior convictions for violent and/or serious cases (PC sections 667.5 and/or 1192.7).

3. Active cases in local custody and not in revocation status.

4. Validated prison/street gang member, gang associate, disruptive group member.

5. Any other identified exclusionary factors as prescribed by law.

(D) If the AOR determines that additional factors exist that would cause the case to be excluded from a recommendation for an earned discharge, those factors will be noted in the record of supervision.

(E) The AOR will then forward all reviewed cases to the Parole Unit Supervisor (US), who will review all cases and shall have the authority to override any AOR recommendation.

(G) For each case where the AOR has recommended that it be excluded from recommendation, and the US upon review concurs with the AOR recommendation, the US shall then note concurrence in the record of supervision at which time the parolee will be removed from final consideration.

(H) All remaining cases with a recommendation for earned discharge shall then be forwarded from the parole unit to the BPH for discharge consideration and determination pursuant to the BPH authority provided by PC section 3000(b)(1).

(e) CDCR Form 2162 is an assessment tool that helps to identify those offenders who are at low risk for the likelihood of a re-offense and is completed by the AOR.

(1) The form is divided into six sections which are comprised of 26 risk factors and corresponding point values that are used to arrive at a risk score for each factor. For each factor on the form, the AOR shall fill in the space next to the correct answer and transfer the corresponding point value number to the Risk Score box.

(2) Each factor's risk score is then weighted and calculated with a static risk weight factor as provided in the CDCR Form 2162-B (09/07), Static Risk Factor Weighting, which is incorporated by reference. Final computation will result with the parolee being classified in one of the following five Risk Level Classifications:

(A) High Violent Risk. Violent score is greater than or equal to 38.

(B) High Property Risk. Not high violent risk and property/violent score is greater than or equal to 50.

(C) High Drug Risk. Not high violent risk and not high property risk and felony score is greater than or equal to 64.

(D) Moderate Risk. Not high risk and property/violent/felony score is greater than or equal to 38.

(E) Low Risk. Not high risk and not moderate risk and felony score is less than 64.

(3) If the parolee is assessed as a low risk level classification, the AOR will then complete the CDCR Form 2162-A (09/07), Dynamic Related Risk Factors, which is incorporated by reference and outlined in subsection 3075.4(e)(5), for the purpose of determining final eligibility for a recommendation for earned discharge.

(4) The CDCR Form 2162 is divided into the following six sections and 26 risk factors:

(A) I. Demographics.

1. Age at time of current sentence. The AOR shall determine the parolee's age at the time of conviction for current offense.

2. Gender.

(B) II. Juvenile Record.

1. Prior juvenile felony adjudications.

2. Prior juvenile non-sex violent felony adjudications.

3. Prior juvenile sex adjudications.

4. Prior commitments to a juvenile institution.

(C) III. Adult Commitment to the California Department of Corrections and Rehabilitation.

(D) IV. Total Adult Felony Record. All prior and current times offender was sentenced.

1. Felony homicide offense: e.g. murder, manslaughter.

2. Felony sex offense.

3. Felony violent property conviction.

(E) V. Total Adult Misdemeanor Record. Total number of sentences, past and current, involving a misdemeanor conviction.

1. Misdemeanor assault offense-not domestic violence related.

2. Misdemeanor domestic violence assault or violation of a domestic violence related protection order, restraining order, or no-contact order.

3. Misdemeanor sex offense.

4. Misdemeanor or other domestic violence; Any non-violent misdemeanor convictions that are connected to domestic violence.

5. Misdemeanor weapon offense.

6. Misdemeanor property offense.

7. Misdemeanor drug offense.

8. Misdemeanor escapes.

9. Misdemeanor alcohol offenses.

(F) VI. Total Sentences/Supervision Violations.

(5) CDCR Form 2162-A, Dynamic Related Risk Factors, shall be completed by the AOR. The form is divided into the following four categories with corresponding risk factors and point values.

(A) Residential factors.

(B) Employment history.

(C) Abiding by conditions of parole.

(D) Victim information. This category assesses parolee compliance with payment of restitution.

(6) Based on the following point totals, the AOR can make a final determination for a recommendation of an earned discharge.

(A) 3 points or less = Eligible for recommendation.

(B) 4 points or more = No recommendation.

NOTE: Authority cited: section 5058.3, Penal Code. Reference: Sections 667.5(c), 1192.7, and 5054, Penal Code.

PAROLEE'S NAME (LAST, FIRST, MI)			CDC NUMBER		
ADULT OFFENDER RISK FACTORS					
I. Demographics					
1. Age at time of current sentence.	<input type="radio"/> 60 or older <input type="radio"/> 50 to 59 <input type="radio"/> 40 to 49 <input type="radio"/> 30 to 39	(0) (1) (2) (3)	<input type="radio"/> 20 to 29 <input type="radio"/> 18 to 19 <input type="radio"/> 13 to 17	(4) (5) (6)	Risk Score <input type="text"/>
2. Gender.	<input type="radio"/> Female	(0)	<input type="radio"/> Male	(1)	<input type="text"/>
II. Juvenile Record					
(All prior and current times the offender was sentenced. Each sentence is defined by a unique or different date of sentence.)					
3. Prior juvenile felony adjudications.	<input type="radio"/> None <input type="radio"/> One <input type="radio"/> Two	(0) (1) (2)	<input type="radio"/> Three <input type="radio"/> Four <input type="radio"/> Five or more	(3) (4) (5)	<input type="text"/>
4. Prior juvenile non-sex violent felony adjudications for: Homicide, robbery, kidnapping, assault, extortion, unlawful imprisonment, custodial interference, domestic violence, or weapon.	<input type="radio"/> None <input type="radio"/> One	(0) (1)	<input type="radio"/> Two or more	(2)	<input type="text"/>
5. Prior juvenile sex adjudications.	<input type="radio"/> None	(0)	<input type="radio"/> One or more	(1)	<input type="text"/>
6. Prior commitments to a juvenile institution.	<input type="radio"/> None <input type="radio"/> One	(0) (1)	<input type="radio"/> Two or more	(2)	<input type="text"/>
III. Commitment to the California Department of Corrections and Rehabilitation					
7. Current commitment to the California Department of Corrections and Rehabilitation.	<input type="radio"/> First <input type="radio"/> Second <input type="radio"/> Third	(1) (2) (3)	<input type="radio"/> Fourth <input type="radio"/> Five or more	(4) (5)	<input type="text"/>
IV. Total Adult Felony Record					
(All prior and current times the offender was sentenced. Each sentence is defined by a unique or different date of sentence.)					
8. Felony homicide offense: e.g., murder, manslaughter.	<input type="radio"/> None	(0)	<input type="radio"/> One or more	(1)	<input type="text"/>
9. Felony sex offense.	<input type="radio"/> None <input type="radio"/> One	(0) (1)	<input type="radio"/> Two or more	(2)	<input type="text"/>

PAROLEE'S NAME (LAST, FIRST, MI)				CDC NUMBER	
IV. Total Adult Felony Record (Continued)					
10. Felony violent property conviction for a felony robbery, kidnapping, extortion, unlawful imprisonment, custodial interference offense, harassment, burglary 1 st , arson.	<input type="radio"/> None <input type="radio"/> One	(0) (1)	<input type="radio"/> Two or more	(2)	Risk Score <input type="checkbox"/>
11. Felony assault offense – not domestic violence related.	<input type="radio"/> None <input type="radio"/> One	(0) (1)	<input type="radio"/> Two <input type="radio"/> Three or more	(2) (3)	<input type="checkbox"/>
12. Felony domestic violence or violation of a domestic violence related protection order, restraining order, or no-contact order, harassment, malicious mischief.	<input type="radio"/> None <input type="radio"/> One	(0) (1)	<input type="radio"/> Two or more	(2)	<input type="checkbox"/>
13. Felony weapon offense.	<input type="radio"/> None <input type="radio"/> One	(0) (1)	<input type="radio"/> Two or more	(2)	<input type="checkbox"/>
14. Felony property offense.	<input type="radio"/> None <input type="radio"/> One <input type="radio"/> Two	(0) (1) (2)	<input type="radio"/> Three <input type="radio"/> Four <input type="radio"/> Five or more	(3) (4) (5)	<input type="checkbox"/>
15. Felony drug offense.	<input type="radio"/> None <input type="radio"/> One	(0) (1)	<input type="radio"/> Two <input type="radio"/> Three or more	(2) (3)	<input type="checkbox"/>
16. Felony escape.	<input type="radio"/> None	(0)	<input type="radio"/> One or more	(1)	<input type="checkbox"/>
V. Total Adult Misdemeanor Record (Total number of sentences, past and current, involving a misdemeanor conviction for)					
17. Misdemeanor assault offense – not domestic violence related.	<input type="radio"/> None <input type="radio"/> One <input type="radio"/> Two	(0) (1) (2)	<input type="radio"/> Three <input type="radio"/> Four <input type="radio"/> Five or more	(3) (4) (5)	<input type="checkbox"/>
18. Misdemeanor domestic violence assault or violation of a domestic violence related protection order, restraining order, or no-contact order.	<input type="radio"/> None <input type="radio"/> One	(0) (1)	<input type="radio"/> Two or more	(2)	<input type="checkbox"/>
19. Misdemeanor sex offense.	<input type="radio"/> None <input type="radio"/> One	(0) (1)	<input type="radio"/> Two or more	(2)	<input type="checkbox"/>

PAROLEE'S NAME (LAST, FIRST, MI)			CDC NUMBER		
V. Total Adult Misdemeanor Record (Continued)					
20. Misdemeanor or other domestic violence; any non-violent misdemeanor convictions such as trespass, property destruction, malicious mischief, theft, etc., that are connected to domestic violence.	<input type="radio"/> None 	(0)	<input type="radio"/> One or more 	(1)	Risk Score <input type="checkbox"/>
21. Misdemeanor weapon offense.	<input type="radio"/> None 	(0)	<input type="radio"/> One or more 	(2)	<input type="checkbox"/>
22. Misdemeanor property offense.	<input type="radio"/> None <input type="radio"/> One 	(0) (1)	<input type="radio"/> Two <input type="radio"/> Three or more 	(2) (3)	<input type="checkbox"/>
23. Misdemeanor drug offense.	<input type="radio"/> None <input type="radio"/> One 	(0) (1)	<input type="radio"/> Two or more 	(2)	<input type="checkbox"/>
24. Misdemeanor escapes.	<input type="radio"/> None 	(0)	<input type="radio"/> One or more 	(1)	<input type="checkbox"/>
25. Misdemeanor alcohol offenses.	<input type="radio"/> None 	(0)	<input type="radio"/> One or more 	(1)	<input type="checkbox"/>
VI. Total Sentences/Supervision Violations					
26. Total sentence/supervision violations.	<input type="radio"/> None <input type="radio"/> One <input type="radio"/> Two 	(0) (1) (2)	<input type="radio"/> Three <input type="radio"/> Four <input type="radio"/> Five or more 	(3) (4) (5)	<input type="checkbox"/>
Total Combined Static Risk Score _____					

Parole Agent's Name (Last, First, MI)	Badge #	Date Signed	Parole Agent's Signature
---------------------------------------	---------	-------------	--------------------------

PAROLEE'S NAME (LAST, FIRST, MI)				CDC NUMBER	
Parole Related Risk Factors					
1. Residential Factors	<input type="radio"/> Self/family <input type="radio"/> Friends <input type="radio"/> Transitional housing	(-2) (+1) (+2)	<input type="radio"/> One or More Address Change. <input type="radio"/> Transient or Homeless.	(+2) (+3)	Risk Score <input type="text"/>
2. Employment History	<input type="radio"/> Fulltime <input type="radio"/> Self-supporting	(-2) (-1)	<input type="radio"/> Part time <input type="radio"/> None	(-1) (+3)	<input type="text"/>
3. Abiding by Conditions of Parole	<input type="radio"/> No Positive Drug Test. <input type="radio"/> Reporting. <input type="radio"/> Following Instructions. <input type="radio"/> Positive attitude. <input type="radio"/> Participating in recommended programs.	(-2) (-2) (-2) (-1) (-1)	<input type="radio"/> Negative attitude. <input type="radio"/> Hard to Contact. <input type="radio"/> One Positive Drug Test. <input type="radio"/> Two or More Positive Drug Tests. <input type="radio"/> Failure to Follow Instructions <input type="radio"/> Nonparticpant	(+1) (+1) (+1) (+2) (+2)	<input type="text"/>
4. Victim Information	<input type="radio"/> Restitution Paid <input type="radio"/> Attempting to Pay Restitution. <input type="radio"/> Complying With No Contact Instructions.	(-2) (-1) (-1)	<input type="radio"/> Restitution Not Paid <input type="radio"/> Non-Compliance With No Contact Instructions	(+2) (+2)	<input type="text"/>
Total Combined Dynamic Risk Score _____					

3 Points or Less: Eligible.

4 Points or More: Not eligible.

Parole Agent's Name (Last, First, MI)	Badge #	Date Signed	Parole Agent's Signature
---------------------------------------	---------	-------------	--------------------------

PAROLEE'S NAME (LAST, FIRST, MI)			CDC NUMBER
STATIC RISK FACTOR WEIGHTING			
Felony Score	Property & Violent Score	Violent Score	Static Risk Factor
Part I - Demographics			
+ 5	+ 4	+2	Age at Time of Sentence for Current Offense.
+ 5	+ 4	+4	Gender.
Part II – Juvenile Record			
+ 4	+ 4	+ 2	Prior Juvenile Felony Adjudications.
+ 2	+ 2	+ 5	Prior Juvenile Non-Sex Violent Felony Adjudications.
- 3	- 2	- 1	Prior Juvenile Felony Sex Adjudications.
+ 4	+ 3	+ 2	Prior Commitments to a Juvenile Institution.
Part III – Commitment to Department of Corrections and Rehabilitation			
+2	+1	+1	Current Commitment to the Department of Corrections
Part IV – Total Adult Felony Record			
- 5	- 3	+ 1	Felony Homicide Offense.
- 4	- 2	+ 2	Felony Sex Offense.
+ 6	+ 5	+ 5	Felony Violent Property Conviction for a Felony Robbery, Kidnapping, Extortion, Unlawful Imprisonment, Custodial Interference Offense.
+ 1	+ 2	+4	Felony Assault Offense – Not Domestic Violence Related.
+ 3	+ 6	+ 10	Felony Domestic Violence Assault or Violation of a Domestic Violence Related Protection Order, Restraining Order, or No-Contact Order.
+ 3	+ 2	+ 5	Felony Weapon Offense.
+ 4	+ 5	0	Felony Property Offense.
+ 6	- 2	0	Felony Drug Offense.
+ 5	+ 3	+ 1	Felony Escape.
Part V – Total Adult Misdemeanor Record			
+ 2	+ 2	+ 3	Misdemeanor Assault Offense – Not Domestic Violence Related.
+ 2	+ 3	+ 3	Misdemeanor Domestic Violence Assault or Violation of a Domestic Violence Related Protection Order, Restraining order, or No-Contact Order.
+ 3	- 1	0	Misdemeanor Sex Offense.
- 3	- 1	+ 1	Misdemeanor Other Domestic Violence.
+ 6	+ 4	+ 4	Misdemeanor Weapon Offense.
+ 4	+ 4	+ 1	Misdemeanor Property Offense.
+ 3	+ 1	0	Misdemeanor Drug Offense.
+ 4	+ 3	+ 2	Misdemeanor Escapes.
- 1	- 1	+ 1	Misdemeanor Alcohol Offense
Part VI – Total Sentence/Supervision Violations			
+ 5	+ 3	+ 1 *	Total Sentence/Supervision Violations (* Three or more scored as 3 for violent score).